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IN THE

Supreme Court of the United States

OCTOBER TERM 1963

No. 907

ORLEANS PARISH SCHOOL BOARD,
Petitioner,

vs.

RELIANCE INSURANCE COMPANY,
Respondent.

BRIEF OF REAL ESTATE BOARD OF NEW ORLEANS, INC., AMICUS CURIAE, IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

JUNE L. GREEN,
509 Washington Bldg.,
Washington 5, D. C.,
Attorney for Real Estate Board of New Orleans Inc.

ARTHUR L. BALLIN,
1006 Carondelet Bldg.,
New Orleans, La. 70130,
Of Counsel.

MOUNTCO, NEW ORLEANS

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Petitioner, Real Estate Board of New Orleans Inc., a non-profit corporation organized under the laws of the State of Louisiana, with the consent of the parties, as will more fully appear from Exhibits 1 and 2, appears herein in support of petition for writ of certiorari to United States Court of Appeals for the Fifth Circuit applied for by the Orleans Parish School Board, and prays that such writ be granted.

The Real Estate Board of New Orleans Inc. is an organization created in 1934 and affiliated with the National Association of Real Estate Boards. Its present membership consists of 205 duly licensed real estate brokers, who are entitled to the use of the name "Realtor"

and who are pledged to adhere to the Code of Ethics of the National Association of Real Estate Boards.

Article 2 of the Charter of Real Estate Board of New Orleans Inc. dated April 10, 1934 reads in part as follows:

> Article 2: "The object and purposes of this corporation are to promote the interest, dignity and character of the Real Estate industry of the City of New Orleans and vicinity; * * * and to promote the welfare of the real estate industry, property owners, tenants, buyers and in general the good of the people of the community; * * * "

The members of this organization are engaged, among other activities, in the management of real estate. In the course of such management it is incumbent upon them to, and they do secure insurance against fire losses and collect compensation for loss in case of fire.

One of the questions presented in the instant case is the measure of an assured's recovery for a partial fire loss to immovable property.

The Court of Appeals reversed the holding of the District Court that depreciations need not be considered in determining the insurer's liability on the policy, and held that replacement-cost-less-depreciation is the measure of an assured's recovery.

It has always been the accepted law and practice in the State of Louisiana for insurance companies to pay, in the event of partial loss, the replacement cost rather than replacement-cost-less-depreciation. The ruling of the Court of Appeals for the Fifth Circuit is contrary to the existing laws of Louisiana and the established practice. If permitted to stand, said decision would cause great

harm to property owners and imperil the security of loans on real estate in all cases in which owners would not be able to restore the property damaged by fire because of insufficient funds received from the insurance policies covering partial fire damage. The very purpose of insurance to-wit: To enable the owner to restore the property with funds adequate to cover replacement costs, is imperiled by said decision of the Court of Appeals.

Petitioner adopts the reasons set forth in detail in the petition filed by Orleans Parish School Board for writ of certiorari and respectfully submits that the Court of Appeals was in error in reversing that portion of the District Court's opinion which awarded Orleans Parish School Board a judgment predicated upon recovery of the full $408,100.00 of loss and prays that a writ of certiorari should issue herein.

Respectfully submitted,

JUNE L. GREEN,
509 Washington Bldg.,
Washington 5, D. C.,
Attorney for Real Estate Board of New Orleans, Inc.

ARTHUR L. BALLIN,
1006 Carondelet Bldg.,
New Orleans, La. 70130,
Of Counsel.

CERTIFICATE

I hereby certify that copies of the foregoing brief were this day served on Deutsch, Kerrigan and Stiles, attorneys of record for Reliance Insurance Company and Samuel I. Rosenberg, Attorney for Orleans Parish School Board by delivering copies to them at their respective offices in the Hibernia Bank Building and National Bank of Commerce Building, in New Orleans, Louisiana.

New Orleans, Louisiana, April , 1964.

Arthur L. Ballin

EXHIBIT 1

ORLEANS PARISH SCHOOL BOARD

SAMUEL I. ROSENBERG, ATTORNEY • 747 NATIONAL BANK OF COMMERCE BUILDING
JACKSON 2-5128 • • NEW ORLEANS, LOUISIANA 70112

March 26, 1964

Mr. Arthur Ballin
Attorney at law
Carondelet Building
New Orleans, La.

In Re: Orleans Parish School Board v. Reliance Insurance Co., No. 907, of the Docket of the Supreme Court of the United States, October Term, 1963.

Dear Mr. Ballin:

This is to advise that the Orleans Parish School Board consents to the Real Estate Board of New Orleans, Inc., filing a brief as amicus curiae in the above numbered and entitled cause.

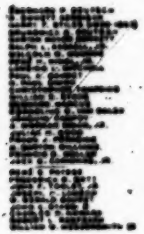
Very truly yours,

Samuel I. Rosenberg
Attorney for the Orleans Parish School Board

SIR:es

cc: Mr. Lloyd J. Rittiner, President
Mr. O. Perry Walker, Superintendent

EXHIBIT 2



DEUTSCH, KERRIGAN & STILES
COUNSELLORS AT LAW
HIBERNIA BANK BUILDING
NEW ORLEANS 70112

CABLE ADDRESS
"DENBY"
NEW ORLEANS

March 13, 1964

Arthur L. Ballin, Esq.
Attorney at Law
Suite 1006 Carondelet Building
New Orleans 12, Louisiana

Dear Mr. Ballin:

This will confirm our advices that we consent to the filing by the Real Estate Board of New Orleans, Inc., of a brief as amicus curiae in Orleans Parish School Board vs Reliance Insurance Co., No. _____, October Term, 1963, Supreme Court of the United States.

Very truly yours,

Deutsch Kerrigan & Stiles

FJP:ics
cc: Samuel I. Rosenberg, Esq.
Real Estate Board of New Orleans, Inc.